



### 3.1 General Inspection Procedures

## 3.1 GENERAL INSPECTION PROCEDURES

### 3.1.1 Purpose

The purpose of inspections is to determine whether facilities are meeting their environmental obligations and to assist them where they are not achieving those requirements. The purpose of this procedure is to establish a uniform process for conducting inspections performed to meet the department's responsibilities, for providing information and technical assistance, conducting conference, conciliation and persuasion, and achieving regulatory compliance.

This procedure will aid in the completion of inspection work products, by helping to:

- conduct high quality inspections and sampling to support improvements in facility performance, environmental improvements, and where necessary, compliance and enforcement efforts of the department, the Attorney General's office and other agencies such as EPA,
- achieve this through the efficient use of resources, while emphasizing the reduction of significant environmental risk, and
- ensure the effectiveness, consistency, and completeness of all inspections and reports.

### 3.1.2 Application

This procedure is applicable to all personnel of the department's Field Services Division and Division of Environmental Quality involved in planning, coordinating, conducting and reporting inspections. This procedure will be followed as closely as possible during inspections; however, the inspector may deviate from the described procedures if unexpected or unique problems occur in the field. Deviations from the established procedure will be discussed in the inspection report.

### 3.1.3 Introduction

Inspections are conducted at facilities that actually or potentially manage contaminants or pollutants that are regulated by the state's environmental laws and regulations. In order to determine the compliance of a specific facility, inspectors need to collect information about the facility's practices and any environmental impacts stemming from those practices. Where necessary, the inspection results support compliance and enforcement actions to ensure full compliance of regulated facilities.

Inspections consist of reviewing a facility's records, reports, and other documents; making observations of a facility's processes, operations, and practices; and recording and documenting the information collected at a facility.

The inspection process consists of:

- preparing for the inspection,
- conducting the inspection,
- completing an exit briefing,
- summarizing the results of the inspection,



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- leaving a copy of the inspection form or other appropriate material with the facility,
- compiling the results of the inspection upon return to the office along with any sampling results, and
- transmitting those results to the facility and others for follow-up actions as appropriate.

Where serious compliance problems are found in inspections, the inspection results provide the compliance and enforcement staff with:

- Firsthand information about a facility's current management practices,
- Information related to the discovery of imminent hazards to human health or the environment,
- Information that identifies and documents regulatory violations, and
- Information which acts to develop and support enforcement actions, i.e. witness names, statements, photographs and copies of facility records.

In order to provide the most cost-effective, time-efficient, and environmentally beneficial inspections possible, the following concepts are incorporated into this procedure:

- Information about a facility's waste management practices should be collected. This will allow combining and organizing the information collected in a semi-formalized manner, thus improving the completeness and thoroughness of the documentation process. Additional data gathering methods should be used as appropriate and may include photographs, checklists, statements, portable computers, and audio and video tapes.
- The inspection will be reported in a clear, concise, and comprehensive standard format document that will minimize the use of unnecessary and potentially confusing verbiage.
- This procedure will allow for all information collected prior to, during, and after the inspection to be organized and transmitted as one complete package.
- Elements contributing to the success of the inspection include the inspector's individual work ethic, the inspector's training, the inspector's teamwork with peers, and support from the supervisor.

Due to the unpredictable nature of circumstances that may be encountered in the field, this procedure allows the inspector to focus attention on those regulatory problems that pose the most significant threat to human health and the environment. For example: the inspection checklist may contain regulatory requirements that are identified as being of higher environmental priority.

Inspectors should be thoroughly familiar with the applicable federal and state laws and regulations and any issued permit conditions. It is important that inspectors complete general training requirements that are listed as requirements prior to conducting inspections. The inspector should conduct a file review prior to the inspection being performed so all historical information as well as any permit conditions and daily operational procedures are known by the inspector before the inspection.

This procedure was developed in cooperation with compliance and enforcement staff so that it will meet those needs to the maximum extent possible. Efforts will be made to improve and modify these inspection procedures to meet any changing needs or priorities. Feedback from the participants in the inspection and enforcement activities is encouraged and solicited in order to ensure that this guidance is updated as needed.



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#### 3.1.4 Inspection Selection and Coordination

The selection of facilities for inspection is primarily the responsibility of the environmental protection programs. The programs will cooperate with regional offices, EPA and others as appropriate to establish the list of facilities. The names of the facilities selected for inspection by regional offices will be shared through workplans or other means.

The region or program to conduct an inspection will assign an inspector. The inspector or the inspector's unit will perform the following coordination activities:

- Evaluate the geographical location of the assigned facilities in order to determine the most efficient way to schedule the assigned inspections. Inspections should be grouped in order to minimize expenses and to best use an inspector's time. In any event, inspections should be scheduled so as to complete work products on time.
- Schedule sufficient time to adequately conduct the inspection.
- Where appropriate, such as for facilities that have extensive involvement with permit or enforcement staff, contact those staff to make the necessary arrangements to accomplish the inspection.

#### 3.1.5 Documentation

Documentation is the process of collecting and recording information about a facility's environmental practices, and the department's efforts to assist the facility in operational or environmental improvement, and where needed, to achieve regulatory compliance. Data or information may be recorded through the use of one or more of the following: field notes, copies of facility documents, data gathering sheets, signed statements from facility personnel, photographs, and through audio or video recordings.

The following elements of good field documentation will be used during the inspection. Each aspect of the facility inspection should be documented. Where a violation is present, it is important to focus on collecting information that provides "proof" that the regulatory violation exists. This information primarily consists of copies of facility documents, photographs of facility practices, and statements made by facility employees. The inspector should attempt to obtain legible copies of all documents copied at the facility, when applicable. The inspector should use maps and diagrams to clearly identify the location of areas or regulatory concerns, to the extent needed to clearly describe the facility. All locations at a facility should be identified by names, numbers, etc. and be referenced to the directions north, south, east, or west. Changes in the information collected in the field should be lined through and initialed by the inspector. The inspector should document the source of information obtained during the inspection.

Proper documentation is absolutely essential for the compliance and enforcement staff to make strong and legally defensible cases where regulatory violations occur. The procedures employed by the inspector must ensure that all information collected is complete and technically accurate. Inspectors should remember that they must be able to testify to the information collected in a court of law.

An important aspect of environmental protection is the facility's responsiveness to environmental problems. The inspection provides an opportunity for staff to explain and discuss environmental problems with



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facility representatives and perhaps to resolve problems or improve operations and, where a problem is a violation, to achieve compliance. Inspectors must focus on determining and documenting when a given violation first occurred and what actions were taken upon its discovery.

The following questions should be answered by the inspector for each piece of information collected: Who, What, When, Where, How and Why? One of the most important elements of an inspection is for inspectors to be able to document and convey how they know what they know, e.g. what they observed in the field and how the information was obtained, and to state this relevant information in the report in a clear manner. Additional information on data collection and report writing can be found in Appendix A. Documentation should use simple, direct language, and short sentences.

Data gathering forms or checklists are one of the primary documentation methods used during inspections. The data gathering forms cover the major regulated areas and have been developed for recording the essential information related to each of these areas. Each of the data gathering forms contain questions, prompts, or other guides for the collection of critical information relative to the type of facility being inspected. The data gathering forms are contained in the program specific volumes of this manual.

The appropriate data gathering sheet or checklist should be used, based on conditions encountered in the field, to record as much information as possible about that portion of the inspection.

#### 3.1.6 General Inspection Procedures

The inspection process is divided into three major groups of procedures: the pre-inspection procedures, the site inspection procedures, and the post-inspection procedures.

During the pre-inspection portion of the inspection, the inspector will collect and organize the information and equipment needed to conduct the site inspection. The pre-inspection procedures are generally conducted in two phases.

- Phase I: the inspector collects information about the facility (history, permitting and management), identifies the goals of the inspection, and plans the sequence of the inspection.
- Phase II: the inspector identifies and collects the equipment needed to conduct the inspection.

The major site inspection procedures that take place in the field include:

- Drive-by/reconnaissance
- Site entry
- Introductory briefing
- Records review
- Visual inspection
- Exit briefing

The post-inspection procedures outline the necessary steps required to prepare and transmit the results of the inspection and include:

- Initial procedures
- Report writing
- Data transmittal



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All inspections will be conducted in a manner that furthers the department's mission and supports the legitimate endeavors of the facility being inspected. Inspectors are directed to:

- Be fully aware of inspection safety procedures, and carry all appropriate safety equipment needed to conduct a thorough and complete inspection. It is emphasized that an inspector should never conduct an activity at a facility in a manner that would jeopardize personal safety. The inspector is ultimately responsible for his or her own safety in the field.
- Conduct the on-site inspection in an efficient, effective, and professional manner and adhere to these procedures to the maximum extent possible.
- Conduct the inspection during normal business hours, unless special arrangements have been made and discussed with appropriate program staff.
- Conduct the inspection on an unannounced basis unless special arrangements are necessary (e.g., satisfying biosecurity needs or arranging to meet the facility representative on-site).
- Conduct the inspection in a manner to minimize the disruption of the facility's normal operations. The inspector will conduct all necessary activities to ensure a thorough inspection within the time allotted by the supervisor to conduct the inspection.
- Manage the course of the inspection so as not to be diverted from accomplishing the objectives of the inspection.
- Remain non-confrontational and show a high level of respect for the rights of the facility and its employees throughout the course of the inspection. Inspectors must remember that they officially represent the State of Missouri.
- Notify the relevant program or division when methods or procedures are identified that may improve the inspection process.
- As an official representative of the government, do not give the appearance of acting inappropriately on any issue that may present ethical dilemmas.
- Conduct a complete inspection, unless a situation is encountered preventing proper completion. Due to the unpredictable nature of the circumstances and conditions encountered in the field, or at the request of the program, the degree of depth in which an inspection is conducted may vary. The inspector will notify the facility of those areas of the inspection that were not thoroughly evaluated and identify those areas in the inspection report.
- Fully describe in the inspection report any deviations from established procedures.

#### 3.1.7 Pre-Inspection Procedures

##### **Phase I**

During the pre-inspection preparation, the inspector should:

- review the facility file that could include engineering plans or operational manuals and other program files that might indicate the overall compliance history of the facility,
- talk to other inspectors who may have been to the facility before and may have useful information, and
- attempt to establish a compliance history of the facility, a clear mental picture of the facility based on known facts, and an understanding of the facility's operations and practices.



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The inspector should coordinate with the program and other media, obtain any available information from the department's databases, and discuss the goals and objectives of the inspection with supervisory or program staff to the extent possible or appropriate. The inspector and supervisory or program staff should discuss and define the prioritization of the inspector's time in the field so that any specific inspection goals may be accomplished.

As part of the review for past regulatory violations, the inspector should determine the nature and extent of those violations and the remedial actions taken or planned by the facility. Recurrent violations found at the facility should be well understood, and information about the violations should be readily available to assess whether those conditions continue. Copies should be made of all information that may be useful or required during the field inspection, for example: facility maps or diagrams, process diagrams, and other information as applicable to the type of facility being inspected. Copies of the permit or parts of the permit are essential for inspections of permitted facilities. Toxic Release Inventory (TRI) information, Online Tracking Information System (OTIS) and similar information sources should be reviewed.

During the file review, the inspector will note any information that might affect or involve other programs (Air, Water, etc.), other agencies or local agencies. Notes should be made regarding special questions and specific information to be verified or obtained during the inspection. Based on the information obtained during the file review, and to the extent practicable, the inspector should review those sections of the regulations and other publications that would facilitate the inspection process.

If significant compliance issues are present at a facility, the inspector should confer with appropriate compliance staff to discuss the finding of the pre-inspection file review, involve other staff or agencies as needed, identify any specific concerns or special needs by the compliance staff and identify any sensitive political, criminal or safety issues.

To maximize inspection time at the facility, the inspector should fill out as many of the necessary forms as possible before arriving at the facility.

#### **Phase II**

The inspector will collect and organize all equipment required to adequately conduct and document the inspection. An equipment check-off list may be provided in the program specific manual. The equipment may include the following, and the inspector should ensure that adequate equipment is taken so that the inspection is conducted efficiently:

- hard hat
- steel-toe, steel-shank boots
- gloves
- pH paper
- safety glasses
- notebook
- 35 MM camera or digital camera, film or digital storage media
- tape measure
- flashlight
- calculator
- compass
- respirator and other appropriate personnel safety equipment



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- official credential (department identification card)
- copies of relevant state and federal regulations
- sampling equipment, tags and chain of custody forms
- copies of applicable data gathering forms
- thermometer
- explosimeter
- multi-meter
- binoculars
- audio/tape recorder and/or video recorder
- any technical assistance materials appropriate for the facility

### 3.1.8 Site Inspection Procedures

#### **Drive-By/Reconnaissance**

The drive-by provides initial reconnaissance information about the layout of the facility and may help in the identification of potential regulatory concerns in plain view. If at all possible, and by use of public right-of-way, the inspector will slowly drive or walk around the facility and try to identify all activities that are in plain view. Items of interest may include littering, container storage areas, tanks, treatment or processing equipment, loading/unloading areas, security fences, discharges, open drums, leachate, stressed vegetation, unusual staining around facility storm water drains or loading and unloading areas, unusual odors, fences or other security measures, and any potential or known violations. The inspector will document all potential violations that are in plain view. A brief sketch should be made to document all observations.

The inspector will note the time of arrival at the facility and will note all observations made from a public right-of-way. Upon arrival at the facility, the inspector should record the following information to the extent that it is not already contained in facility background information:

- The orientation of the facility in relationship to the direction north, and note the major streets and landmarks around the facility.
- General information related to the location of the facility that may affect the assessment of the practices at the facility. For example: Is the facility located in a residential, commercial, or industrial setting? Are there any schools or children nearby? Can passers-by inadvertently be exposed to potential dangers at the facility?

If the inspector identifies significant regulatory concerns during the drive-by, the inspector should conduct the visual portion of the inspection immediately upon completion of those procedures, up to and including the introductory briefing. This will allow the inspector to observe, verify, and document those concerns noted during the drive-by as soon as possible upon entering the facility. The inspector should also collect GPS information for the facility, supplemented by additional reading from other locations at the facility as appropriate.

#### **Site Entry**

The inspector will enter the facility only through the main gate, entrance, or office. Site entry occurs when the inspector first enters the facility and presents official credentials to a facility employee, if one is present. The inspector will not use a business card for identification purposes, but a card should be presented if the inspector has one available. Upon initial



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identification to the first facility employee, the inspector will attempt to contact an official facility representative.

During the initial site entry, a facility's policy may request all visitors to sign a visitors log. If this is requested by the facility for safety and tracking purposes only, then the inspector may sign the log. The inspector should make sure not to waive any personal rights or rights of the government. Examples include: liability releases and information related to confidentiality requirements. If there is any doubt about the purpose of the sign-in, the inspector should not sign in. An inspector should **never** sign any type of waiver or release related to safety or liability. Waivers agreeing to hold confidential business information from disclosure may be signed if in the inspector's opinion the waiver reflects the protection from disclosure afforded by law. Department attorneys or supervisors may be consulted if there are questions as to whether signing any particular waiver is appropriate.

If an official facility representative is not available upon arrival at the facility, the inspector should ask when one will be available. The inspection should be conducted when an official representative is present if possible, unless it would cause an excessive delay to starting the inspection. Due to the varying circumstances that may arise during the initial site entry, the inspector should use best judgement in determining how long to wait for a facility representative to become available or in determining what constitutes an excessive delay (under normal circumstances a delay of more than 15-30 minutes may be considered excessive). If excessive delays are encountered, the inspector should inform the facility that an inspection at the facility will be conducted without a facility representative present or any additional delays may be considered a denial of access.

If access to the facility is denied, either outright by refusal of the facility representative, or functionally by significant delays or other obstacles placed in the way of conducting the inspection, a search warrant may be needed. See Appendix B for search warrant procedures.

#### **Introductory briefing**

The inspector will hold an introductory briefing with the official facility representative to explain the inspection procedures. This will include identifying the purpose, scope, and authority to conduct the inspection; identifying which facility documents will be reviewed and which areas will be examined, and identifying the order in which the inspection will be conducted. The inspector must verify presence at the correct facility, e.g. by comparing the name, address and facility identification number with those noted during the pre-inspection file review. The inspector will explain that findings and observations made during the inspection will be documented through field notes, data gathering sheets, photographs and other means as necessary. The inspector will determine if there are special, personal safety considerations at the facility. The inspector will explain the facility's right to claim proprietary information gathered during the inspection as confidential business information (CBI). The inspector will inform the facility representative that accurate and complete information is needed to properly determine the facility's regulatory status and that the facility is obligated to provide that information. The inspector will explain that all findings and observations made during the inspection will be based on the inspector's current knowledge of the regulations, interpretations, and guidance, and that the final findings of the inspection may differ. The inspector may request a tour of the facility and a description of operational





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procedures to better understand the facility, particularly if this is the inspector's first visit to the facility.

The inspector will explain to the facility representative that answers to questions and a summary of preliminary findings will be provided during the exit briefing.

The inspector should be careful not to state, request or imply that the facility should implement specific solutions to correct regulatory problems noted during the inspection, as the choice of action belongs to the facility. Questions regarding the appropriateness of corrective actions planned or taken by the facility may be handled by the inspector if the inspector is able to assist the facility, or referred to the program for consideration.

The inspector will note the size and sophistication of the facility being inspected (e.g., whether it is a big operation with a technical staff knowledgeable of the regulations, or it is a small operation with limited staff having limited expertise.) If the inspector is denied access, or if limitations are placed on the scope of the inspection, such as restrictions to take photographs, at this or any other time during the inspection, the inspector will follow the Denial of Access procedures (see Section 3.1.10).

#### **Facility Background Information**

The inspector will collect general information about the facility's operations. The inspector will obtain a brief description of the facility's site history, operations, major products or services provided, materials used and major operations, to the extent this information is not contained in information reviewed earlier. This portion of the inspection will be tailored to match the characteristics of the facility. For example, a large quantity hazardous waste generator may need a detailed discussion of the operation to ensure the appropriate regulatory standards are applied in the inspection, while a wastewater treatment facility may have relatively standard components. The inspector may also obtain a brief description of the facility's practices, if available.

#### **Records Review**

The types and amount of records reviewed will be based on the regulatory requirements of the facility. The inspector will review all records, reports, and other documents required by regulation and the permit. The inspector should complete the appropriate data gathering form or checklist for the particular records being reviewed. The inspector will:

- Determine the location of the records
- Note the portion of total records reviewed
- Note the name and title of the person responsible for the completion and maintenance of the particular records being reviewed
- Determine, if applicable, why certain records were not fully reviewed

#### **Visual Inspection**

During the visual inspection the inspector will observe and evaluate those areas of the facility in which regulatory compliance is managed. Whenever possible, the inspector should question the individual employees who actually manage the various operations. The inspector should note changes at the facility that may require an update in the facility's permit. The inspector should use a facility map or diagram whenever possible to note the occurrence of certain activities



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Extreme care should be exercised by the inspector while working with or around hazardous materials. If no hazards are present the inspector should request the facility allow the examination of the item to be inspected and verified. The name of each individual responsible for a given waste management area or activity should be identified.

Any observed violations and inappropriate practices should be clearly identified and thoroughly documented. The circumstances surrounding a regulatory violation should be clearly described. Documentation of the location of the violation, the type and amount of materials involved, the duration or time frame of the violation, the specific dates when the violation first started occurring, and the number of times or frequency that the same violation was found at the facility, should be made. Unless impractical, take pictures of all potential violations.

If potentially illegal operations are encountered, the inspector should gather information about the activity's characteristics and location (diagram and/or picture). The inspector should note details about the operation, the quantity of materials involved and the potential for harm. The inspector should gather information about each occurrence and whether this is a repeating operation. The inspector should identify all individuals who had knowledge of or were involved in the improper activities. Documentation should also show the reasons that lead the inspector to suspect the violation, and all statements made by facility personnel in describing their choice of a particular practice.

The observed violations and inappropriate practices that appear certain to the inspector should be identified to the facility representative during the visual portion of the inspection. When the inspector is unable to immediately make a regulatory determination on a potential violation, all pertinent facts and the circumstances surrounding the situation should be thoroughly documented.

#### **Exit Briefing**

During the exit briefing the inspector will provide the facility officials with a summary of the preliminary findings of the inspection, answer questions and provide appropriate recommendations. The inspector should use caution when answering questions, identifying applicable regulations or providing recommendations, so as not to imply that the facility must act on, correct, or modify its operational or other procedures based solely on the inspector's recommendation.

The inspector will emphasize that the findings and observations made during the inspection are only preliminary and that the final findings of the inspection may differ. The inspector will explain to the facility representative that the regional office or program will make the final regulatory determinations based on the information collected during the inspection and reported in the inspection report. Questions regarding the appropriateness of corrective actions planned or taken by the facility will be made by the regional office or program.

During the exit briefing, the facility representative may ask if there will be a penalty. The inspector should never answer with a definite yes or no to this question. The decision to pursue penalties is often made at a later date by program staff. The inspector should state that the situation could always potentially go to elevated enforcement action, which could involve monetary penalties. It is good to stress to the facility that it should take all



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necessary actions to correct any operation and maintenance issues, other deficiencies or violations as quickly as possible and properly respond to the inspection in accordance with the instructions provided.

The exit briefing should be conducted in the following order:

- The inspector should review all field notes, data gathering forms, and other documents to ensure sufficient information is collected and adequately documented to determine the compliance status of the facility.
- The inspector should then meet with the facility representative (if available) and outline the preliminary findings and clearly explain all observations made during the inspection. The inspector should obtain clarification from the facility on all unresolved issues and obtain any necessary additional information.
- It should be noted that the facility may present information and clarifications that may alter the information and observations made by the inspector (up to this point in the inspection). If information or opinions are presented by the facility that alter the beliefs of the inspector, the inspector should document this new information in the data gathering forms or checklists. The inspector may need to re-evaluate the draft summary of the inspection results while at the facility or upon return to the office.
- It is helpful to suggest that the facility representative take notes during this portion of the inspection.
- If violations are noted, clearly explain all violations.
- Remain professional and do not argue with the facility representative.
- State the facts and your observations.
- Where violations are present, explain the importance of a timely and adequate response to each violation.
- To the extent you are able, provide technical assistance to resolve violations or other problems.
- Where violations are present, explain the department's policy on conference, conciliation and persuasion (CC&P). The inspector may initiate CC&P during the exit briefing where appropriate. Consult Inspection and Enforcement (I&E) manuals, as appropriate, for CC&P discussion.
- State the anticipated timing of the completion of the inspection report, including any additional time that may be needed for sample analysis.
- Thank the facility representative for assistance with the inspection.
- If not provided earlier, leave a business card or other contact information with the representative.
- Exit the facility.

### 3.1.9 Post-Inspection Procedures

#### **Initial Procedures**

Upon leaving the facility, the inspector should immediately submit all samples to the Environmental Services Program for analysis. Samples must be managed according to Environmental Services Program Standard Operating Procedures.

Photographs should be processed, labeled and incorporated within the inspection report.

Secure all information claimed as confidential business information in accordance with established procedures. Contact the appropriate program if there were any findings of imminent hazards.



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#### **Report Write-up**

The report must be written and transmitted to the facility within 30 days -- the sooner the better since information is easier to recall and organize soon after the inspection. The primary objective of the inspection report is to organize all of the information obtained during the inspection process into a clear and comprehensive report package. General information on inspection report writing is contained in Appendix A. Consult program-specific guidance, where available, for automated inspection report forms that can greatly reduce the time needed to complete the report.

#### **Data Transmittal and Tracking**

Inspection data will be entered into the Production Tracking System (PTS) following the completion of the inspection report. Other requirements are discussed in Chapter 6, Data Management.

### 3.1.10 General Definitions, Guidance, And Additional Procedures

This section provides information, guidance, and additional procedures integral to conducting high quality inspections. The information outlined below is arranged alphabetically and will apply throughout the procedure.

#### **Communication**

The inspector should make an extra effort to verify that the speaker and listener understand what is being said and that communication is clear. The inspector should repeat the question/response several times and in different ways if necessary. When communication relates to the collection of critical information about an improper management activity, the inspector should note the key aspects of the communication process in the report.

#### **Confidential Business Information**

Facilities may claim information collected during an inspection as confidential business information (CBI). It is essential that the inspector present the explanation of the facility's ability to claim CBI during the introductory briefing in a manner that reduces the probability of an inappropriate claim. During the introductory briefing the inspector should explain that the purpose of the inspection is to observe and collect information on regulated activities, and not to collect extraneous information that is proprietary in nature. If the facility does claim CBI, the inspector will follow the current procedures for safeguarding CBI and summarize the claim on the data gathering form.

#### **Denial of Access**

The inspector may be denied access to the facility in full or partial form. Examples of denial may include:

- denial to come onto facility property,
- denial to look at records, regulated activities, or other aspects of the facility,
- special restrictions imposed on the inspector, such as not allowing photographs to document violations, or requiring the signing of inappropriate waivers or releases in order to conduct the inspection.

Remember, as an inspector you are not required to sign any type of liability release or safety waiver in order to conduct the inspection. The facility may not make entry conditional upon unreasonable health, safety or other issues. Inspectors should be prepared to meet biosecurity requirements where applicable.



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When a responsible official of the facility to be inspected refuses to allow the inspector to conduct the scheduled inspection or establishes conditions on the inspector that limit the scope of the inspection, the inspector should:

- Remain non-confrontational and professional.
- Give the facility representative a copy of the relevant law and explain the authority to conduct the inspection.
- Obtain the reason for denial of access.
- Obtain the name and title of the facility official denying access.
- Record the time, date, and the name of the individual denying access.
- Complete a Denial of Access Report and request the facility representative's signature.
- Leave the facility.
- As soon as possible after leaving the facility, the inspector should call both the supervisor and program, and report the details of the denial of access.
- The supervisor is responsible for contacting the department's legal counsel and coordinating further efforts to gain access to the facility.
- Legal counsel will typically try to obtain voluntary access to the facility.
- In those cases where a partial denial of access occurs, such as a refusal to allow photographs, the inspector should continue the inspection after consulting with the supervisor and program.
- If voluntary access cannot be obtained, further action may be pursued by legal counsel.
- The inspector should maintain contact with the supervisor and program while awaiting further instructions.

#### **Facility Representative**

The facility representative should be authorized to speak in an official capacity for the facility. That individual must have the "authority" to make "factual statements" regarding the practices observed at the facility.

#### **Facility Statements**

The inspector may want to obtain formal statements from a facility representative or employee in order to document specific issues. The inspector should ask the facility representative to write a statement describing the particular issue, or alternatively, write the statement and obtain the facility representative's signature.

#### **Imminent Hazards**

If an imminently dangerous condition is encountered, the inspector should leave the site and consult a supervisor. Follow-up actions may include a letter to the facility identifying the observed health and safety concerns or, letters to other regulatory agencies such as local fire departments, public health or safety officials, etc. All concerns should be well documented and included in the report. Imminent hazards can include a variety of features such as someone smoking near an ignitable liquid, someone toying with a firearm, or the venting of a toxic chemical in an enclosed space.

#### **Inspector Conduct**

The inspector should display professional conduct during the inspection. The inspector should be familiar with the information contained in department's



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Administrative Policy and Procedures Manual that relates to the ethical standards for department employees.

#### **Notices of Violation (NOV)**

A notice of violation (NOV) is the documentation that a serious violation has occurred at a regulated facility. The issuance of an NOV marks the beginning of the enforcement process. It does not mean or imply that the process of conference, conciliation or persuasion has ended, as that process continues through enforcement. NOVs are issued based on program-specific criteria and are transmitted to the facility with a cover letter and the inspection report. See the Inspection and Enforcement Manual and the program specific inspection chapters of this manual for more information on NOVs.

#### **Photographs**

Photographs using a digital camera are the new standard for all inspection reports. All photographs must accurately represent your observations.

It is recommended that the inspector take photographs in a manner that works from the general to the specific, e.g. take a set-up shot showing the general area of the violation, then take a close-up of the violation itself. Take as many photographs as necessary to clearly document your observations.

Digital Photos will be incorporated within the written inspection report using the photo template as provided in Appendix C. Each photo will be labeled with the following:

- location
- date
- photographer
- direction of view, i.e., "looking west".
- comments - a brief description of the photograph, including an identification of the violations documented by the photograph, or what observations were recorded.

You should "delete" or "discard" digital photos that are not included in the inspection report. If it is important enough to keep, it must be properly labeled and included as part of the official written report. Digital photos that are not labeled, organized and easily recoverable are useless as evidence and pose difficult storage problems for our computer professionals.

#### **Questioning Techniques**

In general, the inspector should not ask leading questions. Instead, open-ended questions should be phrased in a manner that allows facility employees to fill in all necessary details. Normally, the use of simple, direct and open-ended questions are the best for obtaining information. Direct yes/no questions should be used for verification or clarification purposes only. Inspectors should be able to answer the WHO, WHAT, WHEN, WHERE, WHY, and HOW during the inspection, for example

- Who is in charge of the overall operation?
- What are the products, byproducts and wastes from a given process?
- When did you notice the release?
- Where is the chlorine stored when it is not needed for the operation?
- Why did you wait eight hours before reporting the release?
- How did you attempt to contain the release?

If the facility employee does not provide an adequate answer to a question, the inspector should pursue the question until it is resolved. The inspector



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should not accept an answer of "I don't know." unless the inspector has concluded that is the case. The inspector should try to ask the same question in several different ways or try using leading questions where an adequate response is not provided. The inspector should try to gather as much information as possible; estimations are better than no information at all. If possible, the inspector should question other employees in order to resolve the issue.

The inspector should use a logical questioning pattern while obtaining information, e.g., go from the general to the specific, the known to the unknown, or use a time sequence past to present or present to past. When asking critical questions, the inspector should include the phrasing of the questions and answers in the report.

While gathering information during the inspection, the inspector should use the initials of the facility representatives or, use some other manner to identify statements.

The inspector should identify in the data gathering forms or checklists what was done to verify the statements made by facility representatives, and how the truth or accuracy of the statements was determined.

#### **Threats to Government Employees**

If you or another government employee is threatened during an inspection, you must immediately leave the facility. You must contact your supervisor and discuss the circumstances.



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## Appendix A – Guide for Writing an Inspection Report

### DESCRIPTION

If the hard work invested in conducting an inspection can be said to produce a product, it is the inspection report and attachments. An inspection report provides a permanent record in clear, concise, factual language suitable for the intended audience. The primary objectives in generating the report are to document and explain your observations, organizing and coordinating all findings and documentation, including any potential evidence, in a comprehensive, understandable and usable manner. A good report gives the important information so clearly and completely that no one has to explain further.

The narrative and supporting documentation must be:

- **Accurate.** All information must be factual, based upon what you observed and heard, and based on sound practices. All observations must be verifiable.
- **Relevant.** Information in the report should be pertinent to the subject and objectives of the inspection. Information that is not material to the objectives should be omitted, although notes that may be of interest to other department entities may be included in the report and a copy shared.
- **Comprehensive.** Leave nothing out that would contribute to an accurate determination of the facts or support the objective of the inspection. It is better to have too much good information than not enough. The report should also be concise in that it does not ramble or include irrelevant or redundant information, while containing enough information to cover the subject.
- **Organized.** Your report should be well organized and flow in logical sequences. Readers with less technical experience or knowledge should be able to reach rational conclusions based upon the narrative and supporting evidence.
- **Objective.** Factual information should be presented objectively without drawing conclusions. Let the narrative and logical presentation of information lead readers to draw their own conclusions.
- **Clear.** The report should be written at a level for its intended audience. It should be concise and to the point. The objective of the inspector should be to provide an understanding of the report's findings and recommendations to the primary audience of the facility representative and key employees.
- **Professional appearance.** The report is a permanent record and a professional document, and may be subject to scrupulous review. Use acceptable grammar with proper spelling and punctuation. Make the document legible, neat in appearance and organized for easy use.

### ***Some practical considerations:***

- Write in the first person: "I asked Joe what he did."
- Write in the active voice: "Joe told me that he buried the drums behind the shop."





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- Write in logical order. Some inspectors write their reports in the same sequence that they conducted their inspections, while others prioritize the observations by severity of the violation. Attachments and supporting documents should be identified appropriately and in logical relationship with the narrative. For example: "I reviewed the waste manifests and discovered a mistake in the number of drums in section 1(a) of the manifest dated March 12, 1998 (See attachment A-3)."
- Write the report so that information is easy to find. This is often aided by the use of headings.
- Avoid being excessively formal or technical. You should try to clarify rather than make it unnecessarily complex or technical.
- Avoid the use of numerous acronyms, jargon or offensive language. Here are two examples: "The perp exited the SUV." Rather state that "Joe Smith got out of the red GMC Suburban."
- If the inspection objectives require reaching a regulatory conclusion, do so with a clear explanation of logic, calculations and supporting materials. This should be outlined clearly enough in your report so that any other individual with similar professional credentials could review the work and reach the same conclusion.
- Provide supporting verifiable data for any calculations or summaries included in the report.
- Avoid making assumptions by using words like "all", "never", "always".
- Write an Executive Summary or summarize major findings in the cover letter if the report is long. Many managers may not have the time to read the entire report, so a summary will quickly focus them on the conclusion(s).

***The bottom line to a good report:*** A good report is so clear and so complete that the inspector could leave the job and the facility and department would have a complete description of any environmental issues present at the facility at the time of the inspection, and any actions recommended or being taken to address them. Where the inspection led to compliance and enforcement actions, the report would provide potential evidence that would still be able to support the case to a successful completion.

#### **REPORT FORMAT**

The following outline specifies the generic department Level III format for inspection reports. Programs will identify which inspections will use this formal inspection report or lower level reports. Programs may provide specific inspection forms for some types of inspections. Some programs may elect to use field-issued carbon copies of findings; these are established and approved by the programs and require thorough documentation with clarity and verbal explanation if requested. The following guidelines refer to formal written reports.

#### **1. Heading**

This should include the site or activity name, the date of the inspection and the exact geographic location of the site, especially if different from the facility address.

Missouri Department of Natural Resources  
\_\_\_\_\_ Regional Office/\_\_\_\_\_ Program  
Report of Inspection/etc.  
Name of Facility  
Address/Location/City/County  
ID Number



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#### 2. Introduction

This section provides the purpose of the inspection – why you are there – and the specifics of the inspection situation: what is the authority for the inspection, who is present at the inspection, etc. Site contacts should specify names, positions or titles, and telephone numbers. Specify the day and year of the inspection.

- Purpose – Routine Inspection, Complaint Investigation, Follow-up Visit, Surveillance, Emergency Response, Report of Discharge, etc.
- Participants – Who was present, title, relation to the facility  
Inspector's name
- Date conducted
- Pursuant to which laws, regulations, permits

#### 3. Facility Description

There should be a brief description of the present operation. This may include the compliance history, any follow-up issues from previous inspections, or any changes that have occurred since the previous inspection.

- The history of the facility, site location, processes and ownership may all be pertinent to the report Description of facility and operation
- Exact geographic location
- Responsible entities, their names & addresses
- Date of last inspection and findings or unresolved/continuing issues

#### 4. Discussion of Inspection and Observations

This section provides the details of the inspection.

- Inspection preparation
  - File(s) reviewed and information obtained
  - Supplies, tools, sampling equipment (calibrated?)
  - Review Standard Operating Procedures (SOPs) and safety equipment needed
- Entry Procedures
  - During normal business hours
  - Without prior notice or as arranged by telephone call
  - Opening conference that explained the inspection authority and procedure
- Review Of Facility and Operations
  - Factual observations and findings in chronological order of inspector directed tour
  - Evidence (Photographs, samples)
  - Practices described or statements made
  - General observations – (for example, if relevant to a particular media, observations might include temperature, wind, smoke, vegetation, odor, etc.)
  - Field monitoring results
- Records Review
  - What was reviewed?
  - What was copied?
  - What was requested?



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#### 5. Compliance Issues

This section provides a summary of findings related to violations observed, regulatory compliance including any unsatisfactory features, the presentation of formal notices, the need for immediate or other remedial actions, the schedule for expected changes or improvements and other requirements or recommendations. *Where there is a history of noncompliance, the report should reflect whether it is a thing of the past or a pattern repeated to the present.*

- Compliance history – an example would be a review of discharge data for the last two years
- Compliance determination – include a statement as to whether or not the facility is in compliance with applicable laws and regulations.
- Findings of Non-Compliance – include any written responses and abatement actions required and a detailed explanation of each violation. List which findings warrant a letter of warning or notice of violation. Follow-up actions may or may not be required.
- Requirements – this section describes actions the facility must take.
- Comments – this section is often used to describe needed corrections to various adverse findings or violations. The inspector may suggest the facility take actions to prevent future compliance issues, but should note if such actions are not required for the facility's current compliance.
- Summary – this is the inspector's preliminary findings, including concerns and comments. Some issues may require additional analysis and research. If so, the inspector should notify the regulated entity of the determination. Any concerns or questions should be raised in this section. An offer to meet or provide assistance or information may be tendered if appropriate (See Conference, Conciliation, and Persuasion)

#### 6. Signatures

- Inspector – inspectors should always sign their reports. This is your work, and shows you stand by your observations and findings. Regions or programs may require additional signatures or concurrence when reports transmit special notices or requirements (e.g., Notices of Violation).
- Reviewer – each program and region assigns their own requirements for reviewers of reports. This may be dependent upon many factors, such as experience of the inspector, and should be explained to the inspector upon orientation.
- Date Signed

#### 7. Attachments

- List and identify all notes, documents, photographs, notices, and other documentation appended to the inspection report, such as inspection forms.

#### Inspection Report Completion

The inspector will strive to complete the draft inspection report within seven days of completion of the inspection, if required facility submittals are complete. Inspection reports are then transmitted through approval and signature as specified by the region or program. Data is then entered into appropriate databases. The report must be sent to the facility within 30 days of the inspection unless there are unusual circumstances. Any delays should be discussed with and approved by the supervisor.



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#### **Appendix B – Search Warrant Procedures**

If a search warrant is required, law enforcement personnel who will serve the warrant and ensure the inspector's safety at the facility should accompany inspectors for the whole visit. Under no circumstances shall an inspector serve the warrant – warrant service is the responsibility of the local law enforcement agency, acting as an extension of the State Court. Contact the specific program enforcement section for instructions on obtaining a search warrant through department counsel or from the Attorney General's Office. The attorney will obtain the search warrant as required and coordinate with local law enforcement and the department representative to serve the warrant at the facility entrance. While every effort should be made to follow facility safety requirements, inspectors are employees of the state, not the facility, nor are they contractors bound by facility requirements. Inspectors, therefore, cannot be denied access based on facility safety or insurance policies. More information on search warrants may be found in the Inspection and Enforcement manuals.



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**Appendix C - Photo Template**

[Insert Picture]

Location:

Photographer:

Photograph Date:

Direction of View:

Comments:

[Insert Picture]

Location:

Photographer:

Photograph Date:

Direction of View:

Comments: